COUNTY PLANNING COMMISSION TUESDAY, AUGUST 25, 2009

SUPPLEMENTAL STAFF REPORT AND RECOMMENDATIONS

BAY POINT WATERFRONT GENERAL PLAN AMENDMENT

I. INTRODUCTION

Contra Costa County Redevelopment Agency (Project Sponsor) - Pacific Gas & Electric Company. Bay Point Venture One, LLC, and Joyce Trost (Owners), County File #GP03-0009: A proposed amendment to the Contra Costa County General Plan (2005-2020) to support the implementation of the Bay Point Waterfront Strategic Plan. The proposed General Plan Amendment includes amending the Land Use Element: a) an adjustment to the Urban Limit Line (ULL) by shifting of the location of the ULL (involving less than 30 acres of land); b) changing the land use designations for some portions of the project site, including approximately 10 acres of Commercial Recreation (CR) and 13 acres of Open Space (OS) to be re-designated to Multiple-Family Residential - Medium Density (MM), and re-designating approximately 10 acres of Open Space to Park and Recreation (PR); and c) adding clarifying language to the text under Policy # 3-77, "Policies for the Bay Point Area", to incorporate and reference the provisions of the Bay Point Waterfront Strategic Plan as providing additional guidance for the development of the waterfront area. A final component to the proposed General Plan Amendment includes amending the Transportation and Circulation Element: a) adding the extension of two roads, Pacifica Avenue Extension and Alves Lane Extension; and, b) updating the Bicycle Facilities Map to reflect new, proposed bicycle facilities to serve the waterfront area. These changes to the General Plan would allow for the reconfiguration of the marina, development of marina-related residential neighborhood, and development of new park and recreation area and provide consistency between the General Plan and the Bay Point Waterfront Strategic Plan. Finally, the proposal also includes a modification to the Development Plan (County File #DP00-3003), amending the Land Use Map for the Bay Point Planned-Unit District consistent with changes to the General Plan Land Use Element.

The approximately 190-acre Strategic Plan Area, which is partially within the adopted Bay Point Redevelopment Area (Redevelopment Area), is located north of the Union Pacific Railroad tracks, at the terminus of McAvoy Road in the Bay Point area of eastern Contra Costa County. Assessor's Parcel Numbers 098-020-023, 098-020-024, 098-020-025, 098-250-013, 098-250-019 and 098-250-020 (continued from June 9, 2009).

II. <u>RECOMMENDATION</u>

Staff recommends the County Planning Commission forward a recommendation to the Board of Supervisors as follows:

A. That on the basis of the whole record before it, including the Initial Study, Environmental Impact Report, and the comments received, there is no substantial evidence that the project will have a significant effect on the environment that cannot be mitigated and that the Final Environmental Impact Report reflects the County's independent judgment and analysis.

- B. Recommend to the Board of Supervisors the adoption of the Environmental Impact Report (SCH#2004092009) and the accompanying Mitigation Monitoring Program.
- C. Amend the Urban Limit Line map in the Land Use Element, as shown in Figure 12, 8/11/2009 Supplemental Staff Report, referred to as the "Terrell Alternative General Plan Land Use Map", and Figure 14, "Terrell Alternative Proposed Urban Limit Line", as a minor change or modification to the Urban Limit Line that will more accurately reflect topographical characteristics or legal boundaries, which will not cause a violation of the 65/35 Land Preservation Standard.
- D. Amend the Land Use Element Map designations for the Bay Point waterfront area, as shown in Figure 12, 8/11/2009 Supplemental Staff Report, the "Terrell Alternative General Plan Land Use Map", which also incorporates a trail alignment for the California Delta Trail.
- E. Amend the Land Use Element text under "Policies for the Bay Point Area", at Policy #3-77, including the addition of a new policy supporting the planning and development of the California Delta Trail and shown in Figure 13 of the 8/11/2009 Supplemental Staff Report.
- F. Amend the Transportation/Circulation Element including the Roadway Network Map to extend and add new collector streets and the Bicycle Facilities Network Map to include new Class II bicycle lane and proposed bicycle facility as part of the future railroad grade separation of the Alves Lane extension, as more fully described in Section V.B of the June 9, 2009 report.
- G. Approve a modification to the Development Plan, County File #DP00-3003, by amending the General Plan Land Use Designation Map for the Bay Point Planned-Unit (P-1) Zoning District Program to reflect the same changes as described in Section V.A.2 and shown in Figure 5 of the June 9, 2009 report.

III. BACKGROUND

The County Planning Commission opened a public hearing on the proposed Bay Point Waterfront General Plan Amendment on June 23, 2009 (continued from the June 9, 2009 meeting). Upon the staff's recommendation, the Commission continued the item to address the California Delta Trail alignment and to review an alternate configuration of the marina and residential areas, as recommended by Commissioner Terrell, which affects the proposed Commercial Recreation (CR) and Multiple Family Residential-Medium Density (MM) designations. In addition, the Commission requested comments submitted by David Custodio at the public hearing on June 23, 2009 be copied and provided to all Commissioners. The Commission accepted additional testimony at the August 11, 2009 hearing, closed the public hearing and continued the item to the August 25, 2009 meeting. The Commission requested staff respond to the 8/11/2009 public hearing testimony concerning marina operations during interim period prior to marina improvements and the likely phasing or timing of marina improvements and residential development.

IV. RESPONSE TO 8/11/2009 PUBLIC HEARING TESTIMONY

Marina Operations: The marina operators (McAvoy Harbor) expressed concern about the ability to operate and maintain the marina during the period following a general plan amendment, but prior to implementation of the plan. They expressed concern about potential restrictions to

obtaining building permits for miscellaneous repairs at the marina. The Planning Commission requested staff to review and respond to the concerns raised by the McAvoy Harbor owners about their ability to operate and maintain the marina during interim period between General Plan Amendment adoption and implementation of the Bay Point Waterfront Strategic Plan.

The McAvoy Harbor operates under a Land Use Permit issued in 1975, County File: LP#2078-74, which approved an office building, caretaker mobile home, a boat repair building, and designated a location for a restaurant (Figure #16). Subsequent land use permits were approved by the County that amended the original land use permit. County File LP#2090-85 allowed a house moving equipment storage area and the temporary storage of homes (Figure #17). File LP#2133-86 further amended the original permit to establish a harbormaster quarters and additional storage in the existing marina (Figure #18). These land use permits run with the property and will not be invalidated by a General Plan Amendment. Repairs and improvements necessary for the continued operation of the marina will continue to be allowed, subject to compliance with the existing conditions of approval for the Land Use Permits listed above and relevant building codes. While the General Plan Amendment proposes to re-designate a portion of the existing marina from Commercial Recreation (CR) to Water (WA), as depicted in Figure 12, 8/11/2009, Supplemental Staff Report, this change in use designation would not alter the underlying land use permit that entitled the owner to operate and maintain marina berths. The area where a portion of the McAvoy Harbor berths or boat slips are now located, which is to be re-designated Water (WA), would be consistent with this new land use designation, because WA allows "water-oriented recreation uses such as boating and fishing". 1 Marina slips, docks, or berths are clearly related to water-oriented recreation use and therefore are allowed uses under the WA designation.

It is also important to note that the owners of the McAvoy Harbor (Joyce Trost) and the Bay Conservation and Development Commission (BCDC) stipulated to an entry of judgment in Superior Court, which in addition to the County File: LP#2078-74, effectively provides a legal right to the owner for use of the property as a marina. 2 In that judgment, BCDC agreed to the construction of 416 berths, construction and use of several marina-related facilities, a limited fence boat storage area, an entry gate, pavement, a café, in-kind maintenance of these improvements, and maintenance dredging. As a term of the judgment, the McAvoy Harbor owners agreed to install public access, starting at the harbor entry to and along the west property line, and starting at the harbor entrance to, and including a picnic and viewing area next to, the boat launch ramp. The owners also agreed to restore an area of tidal marsh at the northwest corner of the road to the north of the basin, remove all unauthorized fill and materials to approved removal sites, and pay a fine. The stipulated judgment applies to the successors of interest to the McAvoy Harbor, but, if the project changes, the owner or the successor of interest must either obtain a BCDC permit or amend the judgment. So, consistent with the requirements of the stipulated judgment, the operation of a 416 berth marina and ancillary marina facilities would not be impeded by the General Plan Amendment, because as noted above the proposed Water (WA) land use designation considers marina slips, docks, or berths to be an allowed use. Therefore, the owner or the successor of interest may continue operation and maintenance of the marina consistent with the stipulated judgment.

^{1.} See complete description of the Water (WA) land use designation in Chapter 3. Land Use Element, Contra Costa County General Plan, 2005-2020, at page 3-28, online version.

See complete discussion of the stipulated agreement in BCDC's comment letter to Notice of Preparation for the Bay Waterfront Strategic Plan, Appendix B, Draft EIR (March 2007).

The former Harris Yacht Harbor was established under a land use permit issued in 1963 (County File: LP#63-444). The County issued a permit to a Mr. Russell Harris to enlarge an existing non-conforming use (yacht marina) per a plot plan submitted with the application. The Harris Yacht Harbor site was subsequently acquired by Pacific Gas & Electric Company, and all associated marina uses and activities were ceased by 2002. According to the County Ordinance Code, the land use permit for the former Harris Yacht Harbor would now be considered void at this point since the marina use has been discontinued for more than six months (Chapter 26-2.2016, County Ordinance Code).

<u>Project Phasing</u>: The General Plan Amendment provides for a framework for revitalization of the waterfront. The plan envisions both the McAvoy Harbor and the former Harris Yacht Harbor to be reconfigured. The marina improvements could logistically be done in phases, allowing for no loss of berthing space. For example a first phase could include marina areas currently not in use (i.e. the entire former Harris Yacht Harbor site and the southermmost silted area of the McAvoy Marina) which would not displace boaters. A second phase of marina improvements could be done after renters are relocated to newly improved areas of the marina. Issues regarding the costs, including continuation of existing rates or gradual increases, will be a business decision of the property owner.

<u>Project Timing</u>: The General Plan Amendment is the first of many steps necessary to implement the Bay Point Waterfront Strategic Plan. Following are the original steps and additional steps, as well as estimated timing for plan implementation:

- Bay Point Waterfront Community Planning Process (2002-2003) Board of Supervisors approved the Bay Point Waterfront Strategic Plan and authorized a General Plan Amendment Study to enact General Plan changes in support of waterfront strategic plan implementation. (December 2003)
- o Work with current property owners to develop a request for development proposals/owner participation agreement for future development of marina. Tentative timing from PG&E is estimated to be 3-5 years. If current property owners identify new ownership for both properties, request for proposals will not be necessary. This is also the period in which an appraisal would be prepared.
- Consideration of a development plan and subdivision application approximately 1 year to prepare and submit an application and 6-12 months to process the application.
- Regulatory Permits for dredging need to be obtained from the Army Corps of Engineers,
 Bay Conservation and Development Commission, and Regional Water Quality Control
 Board. This process is estimated to take 1-3 years.
- O Dredging of harbor is likely to occur in phases over a 2 4 year period. Phasing would be necessary due to construction season limitations imposed by regulatory agencies. Phasing would also minimize displacement of boaters, by beginning work in vacant harbor areas. Improved areas would then become available to accommodate boaters from the next phase. Phasing of the dredging would also allow for little to no interruption in the revenue stream for the slip rental, an important business point.
- O A split-grade crossing of the railroad tracks would need to be constructed. Finance, design and construction are estimated to take at least 10 years.

- Only after a split grade crossing is completed, can housing be constructed in the waterfront area.
- O Recreational improvements could be installed at the same time either marina improvements or housing is implemented.

As described above, the timing for marina improvements is estimated to take a minimum of 7-14 years. The housing phase of the project is estimated to occur in 10 years at the earliest. The timing for any of these phases is also dependent on obtaining financing for the improvements and may result in additional time for implementation.

The marina improvements as envisioned under the Bay Point Waterfront Strategic Plan would be owner/investor driven, with involvement of the Redevelopment Agency limited to sponsoring the General Plan Amendment, Environmental Impact Report, and possibly coordination of the request for developer proposals. Future involvement could include agreements with the property owners to assist with financing improvements.

VI. CONCLUSION

The General Plan Amendment provides for the framework to support implementation of the Board-adopted Bay Point Waterfront Strategic Plan. The General Plan Amendment is the first of many necessary steps toward the Bay Point community's longstanding goal to revitalize its waterfront.

Attachments (4 items - marina related Land Use Permits)

Figure #16: LP#2078-74 Figure #17 LP#2090-85 Figure #18 LP#2133-86 Figure #19 LP#444-63

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Contra Costa County Planning Department County Administration Building Pine & Escobar Streets Martinez, California

Application No. 2078-75 Assessor's Parcel No. Land Use District: II- I Effective Date: Sept. 24, 1975

98-020-06 € 07

AS AUTHORIZED BY THE BOARD OF ADJUSTMENT a conditional use permit is hereby granted to:

MCAVOY YACHT HARBOR 100 River Sands Pittsburg, California 94565

FOR THE FOLLOWING: To establish an office building, a mobile home for a caretaker, a boat repair building and location for a restaurant - Granted with the following conditions:

- Development shall be as shown on the plans submitted with the application subject to the conditions listed below.
- 2. Off-street parking areas shall be surfaced with an asphaltic or Portland cement binder pavement, or similar material, so as to provide a durable and dustless surface, and shall be so graded and drained as to prevent the ponding of water.
- 3. No signs are approved by this permit.
- 4. Comply with the requirements of the Contra Costa County Flood Control District, as follows:

The installation of storm drainage facilities as stipulated in the County Ordinance Code (Title 9), shall be constructed in accordance with the recommendations by the Flood Control District and the Building Inspection Department; and in particular:

The floor elevation of any future improvements shall be no lower that 9.5 feet U.S.G.S. datum.

- 5. Comply with the requirements of the Contra Costa County Consolidated Fire District, as follows:
 - Submit two (2) sets of construction plans and specifications, including site plans, of the three buildings being proposed to this office for review and approval to insure compliance with the minimum code requirements related to fire and life safety as set forth in the Uniform Fire Code and the State Fire Marshal's Regulations.
 - Water supply for fire protection shall be provided as directed by the Fire District upon submittal of more detailed plans prior to construction.
- Comply with the requirements of the Contra Costa County Building Inspection Department.
- 7. Comply with the requirements of the Contra Costa County Health Department.

- 8. The permit for the establishment of a mobile trailer to be occupied by a caretaker or watchman is granted, with the following conditions:
 - A. The trailer shall be placed on the property as shown on the plot plan filed with the application.
 - B. Applicant shall obtain the necessary utility permits and approval from the Contra Costa County Building Department.
 - C. The trailer shall be removed from the premises when the trailer is no longer needed for the above use.
 - D. A sewage disposal permit shall be obtained from the County Health Department.
 - E. The mobile home shall contain not less than 220 square feet of superficial floor area as defined by the Health and Safety Code.
 - F. This permit shall be valid for a period of two (2) years.

LOCATED ON: A 32^{+} acre parcel, bounded bn the north by Suisun Bay, on the south by the A.T. ξ S.F. Railroad, approx. 600' north of Port Chicago Highway, known as McAvoy's Harbor, in the Pittsburg area.

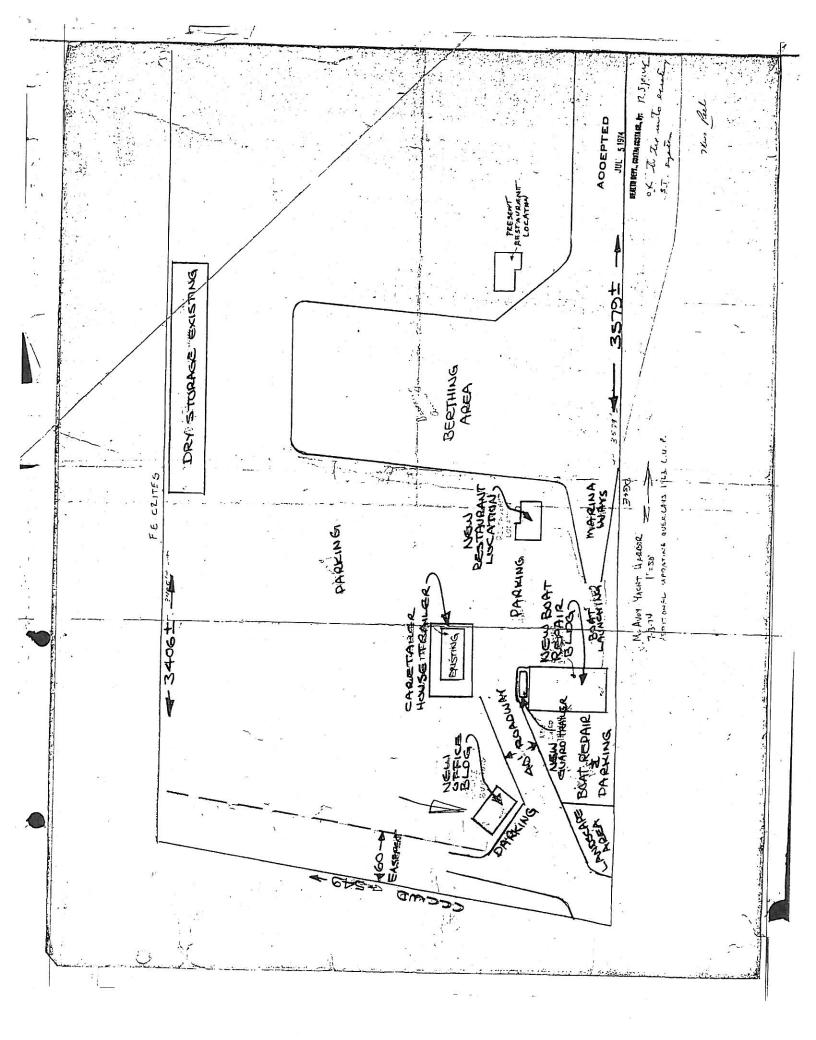
Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE YEAR from the effective date if the conditional use allowed by this permit is not established within that time.

Anthony A. Dehaesus Director of Planning

Gunther Boccius Senior Planner

GB: gg

cc: File #2078-75
Floyd E. Crites
Land Dev., Public Works
Flood Control District
Contra Costa Consolidated Fire Dist.
Building Inspection, Health Dept.



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CONTRA COSTA COUNTY

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COMMUNITY DEVELOPMENT DEPARTMENT

APPROVED PERMIT

Ron and Joyce Trost 10 Calvin Court APPLICANT:

Orinda, CA 94563

Same

OWNER:

APPLICATION NO. .

2090-85

ASSESSOR'S PARCEL NO. 098-020-012/013

ZONING DISTRICT:

H-I

September 20, 1985

EFFECTIVE DATE:

This matter not having been appealed within the time prescribed by law, a permit for amending an existing land use permit with the additon of ahousing moving equipment storage yard and temporary storage of homes is hereby granted, subject to the attached conditions.

Director of Community Development ANTHONY A. DEHAESUS

Ar Harvey E. Bragdon, Acting Loning Administrator Dermis M. Cherry B**4** :

Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE YEAR from the effective date, if the use allowed by this permit is not established within that time.

PLEASE NOTE THE EFFECTIVE DATE, as no further notification will be sent by this office.

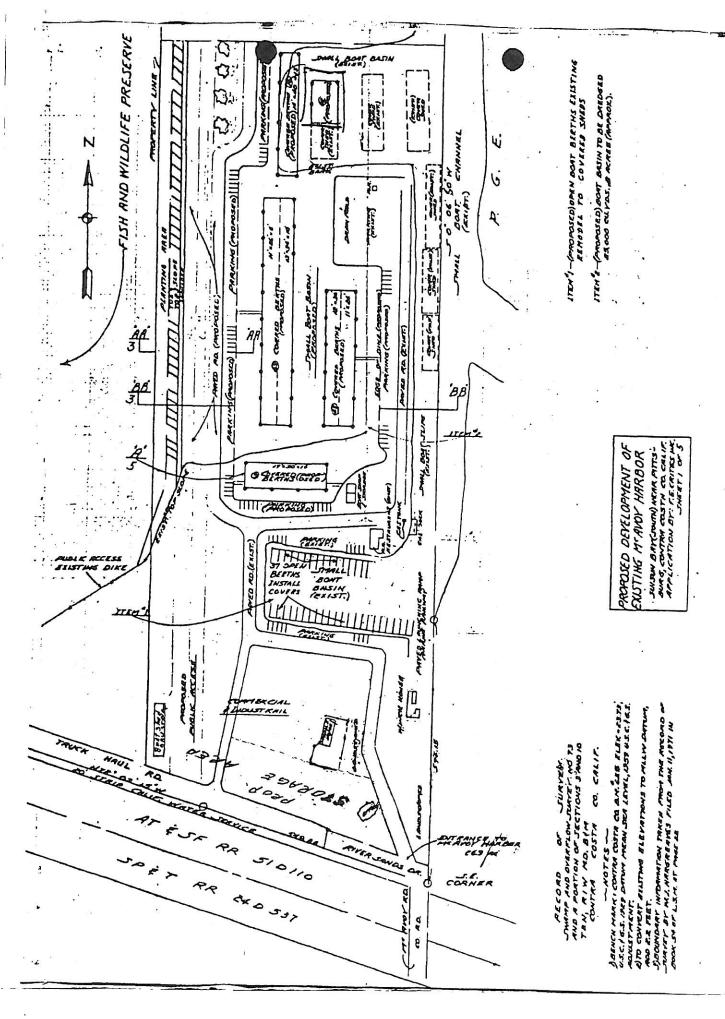
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CONDITIONS OF APPROVAL FOR LAND USE PERMIT 2090-85:

- The property be developed according to the plans dated the Community Development Department on August 30, 1985.
- 2. The applicant shall provide an 8' chain link fence with redwood or vinyl slates or its equivalent around the subject parcel, based upon security and visual considerations. Final plans showing the design and material of the fence shall be submitted for the review and approval of the Zoning Administrator.
- 3. The applicant must adhere to the following operating characteristics:
 - A. No more than 5 houses may be stored on the lot during any one period.
 - B. No house may be stored for a period exceeding 45 days.
 - C. Business operations shall adhere the following days and hours: 7:30 5:30 P.M. Monday thru Friday. 8:00 A.M. 11:00 A.M. Sunday only.
- 4. Comply with the requirments of the Riverview Fire Protection District as follows:
 - A. Submit a fire protection plan to the Fire Prevention Bureau for storage area.
 - B. Provide fire extinguishers, size and number to be determined by the authority.
- Comply with drainage, road improvement, traffic and utility requirements as follows:
 - A. Submit a revised site plan prior to initiating this use, subject to the administrative approval of the Zoning Administrator. The revised site plan shall be dimensioned and shall show the property lines in this vicinity, the 60-foot wide non-exclusive easement and the area proposed to be used for the housemoving equipment storage yard.
 - B. Mitigate the adverse traffic impacts attributed to this development by complying with the following prior to obtaining a building permit on this property.
 - Payment of the West Pittsburg Road Fee if it is established.
 - C. In accordance with Section 82-2.014 of the County Ordinance Code, this development shall conform to the requirements of Division 914 (Drainage) of the Subdivision Ordinance, unless exceptions are specifically granted. An exception is permitted from Section 914-2.006, "Surface Water Flowing from Subdivision", provided the applicant maintains the existing drainage pattern and does not dispose concentrated storm waters onto adjacent properties.

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CONTRA COSTA COUNTY COMMUNITY DEVELOPMENT DEPT. . Aug 30 11 30 AM '85 2090-85 BOAT Shee AAATTI FI TRUCKS 000000 20000 20000 9 TEX OAL 9 STATE OF THE STATE MINER MOUSE.

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CONTRA COSTA COUNTY COMMUNITY DEVELOPMENT DEPARTMENT APPROVED PERMIT

APPLICANT: James Farr Construction

P.O. Box 2567

Martinez, CA 94553

APPLICATION NO.

2133-86

ASSESSOR'S PARCEL NO. 98-020-012

OWNER:

McAvoy Yacht Harbor

10 Calvin Ct.

Orinda, CA 94563

ZONING DISTRICT

H-I

EFFECTIVE DATE:

12-19-86

This matter not having been appealed within the time prescribed by law, a permit for requesting approval to amend Land Use Permits 2078-74 and 2090-85 in order to establish harbormaster quarters and storage in the existing marina is hereby granted, subject to the attached conditions shown as Exhibit "A".

> Harvey E. Bragdon Director of Community Development

Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE YEAR from the effective date, if the use allowed by this permit is not established within that time.

PLEASE NOTE THE EFFECTIVE DATE, as no further notification will be sent by this office.

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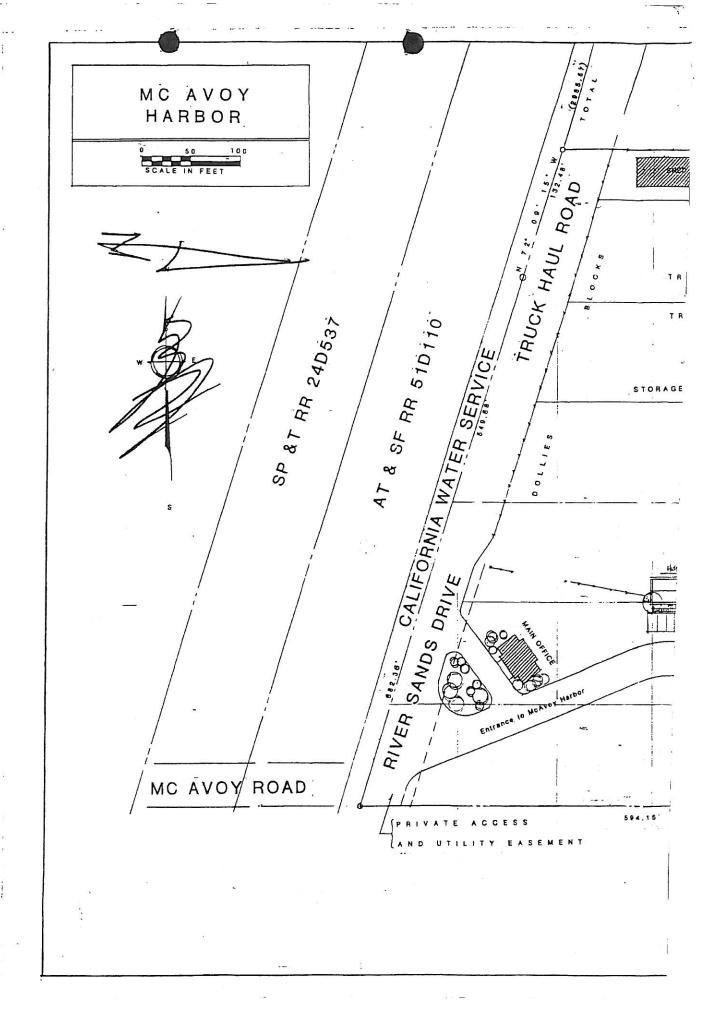
CONDITIONS OF APPROVAL FOR LAND USE PERMIT 2133-86.

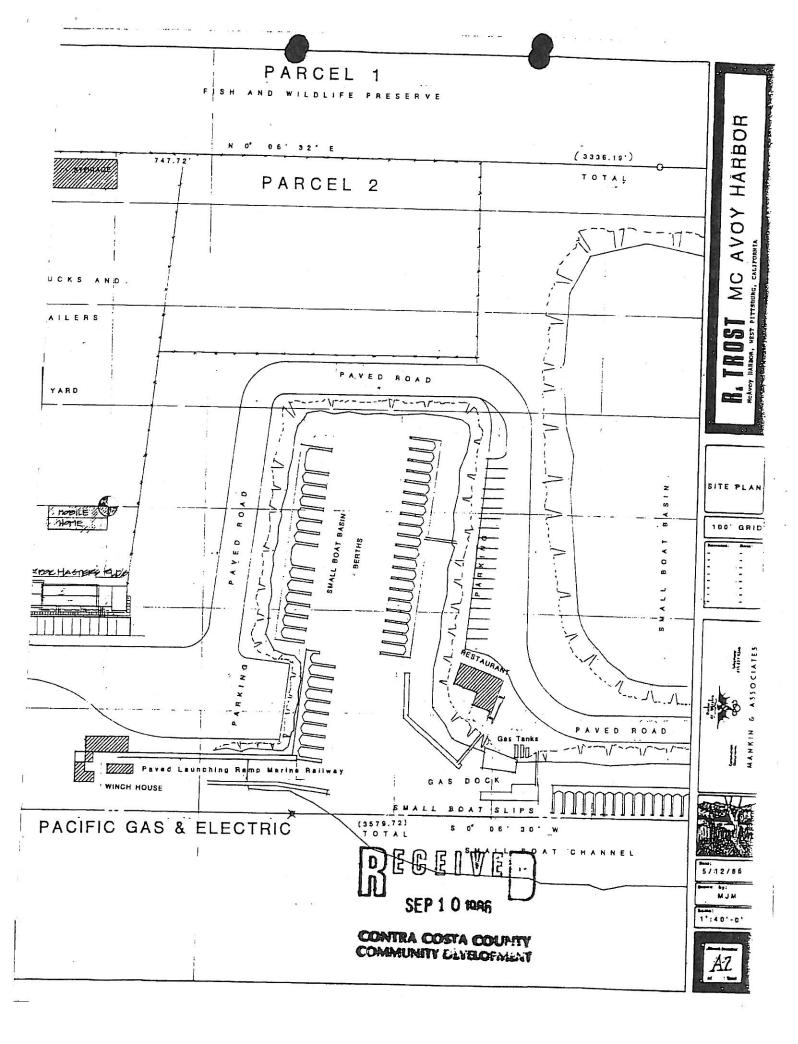
Comply with drainage, road improvement, traffic and utility requirements as follows:

- A. In accordance with Section 82-2.014 of the County Ordinance Code, this development shall conform to the requirements of Division 914 (Drainage) of the Subdivision Ordinance, unless exceptions are specifically granted.
- B. Pave the roadway between the paved roadway near the main office and the paved roadway near the boat launch to a 24-foot width.
- C. Install all new utility distribution services underground.
- D. Furnish proof to the Public Works Department, Engineering Services Division, that legal access to the property is available from the County maintained portion of McAvoy Road.
- E. Comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the East/Central County Travel Corridor Area of Benefit as adopted by the Board of Supervisors.
- F. Comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for West Pittsburg Area of Benefit as adopted by the Board of Supervisors.
- G. Furnish proof to the Public Works Department, Engineering Services Division, of the acquisition of all necessary rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, road and drainage improvements.
- H. Elevate the lowest floor of the structure to at least 2 feet above the 100-year water surface.

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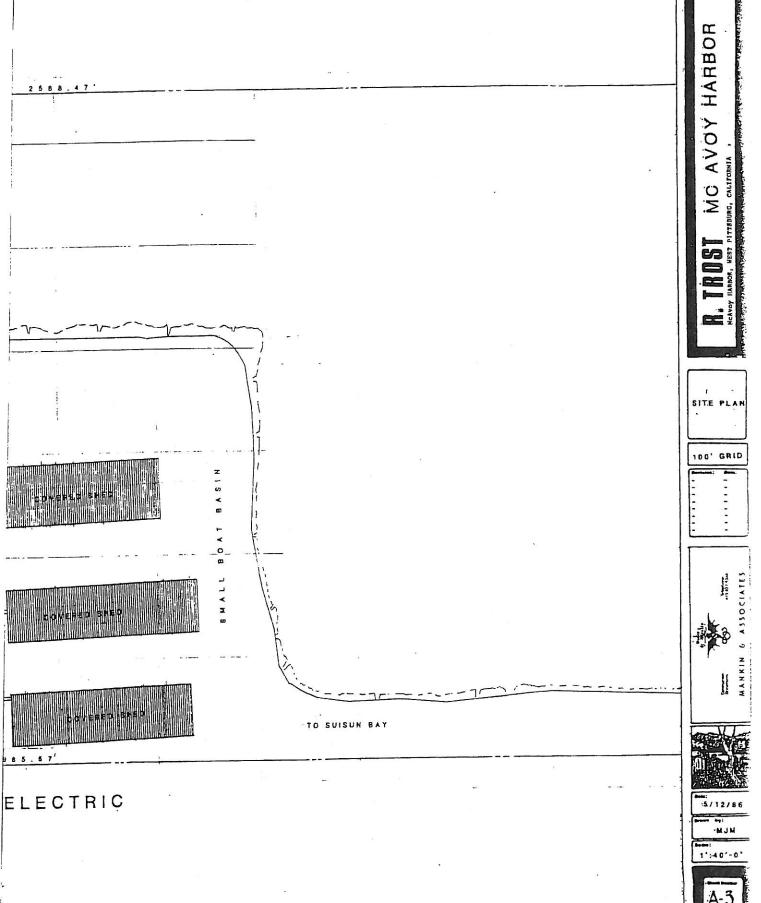
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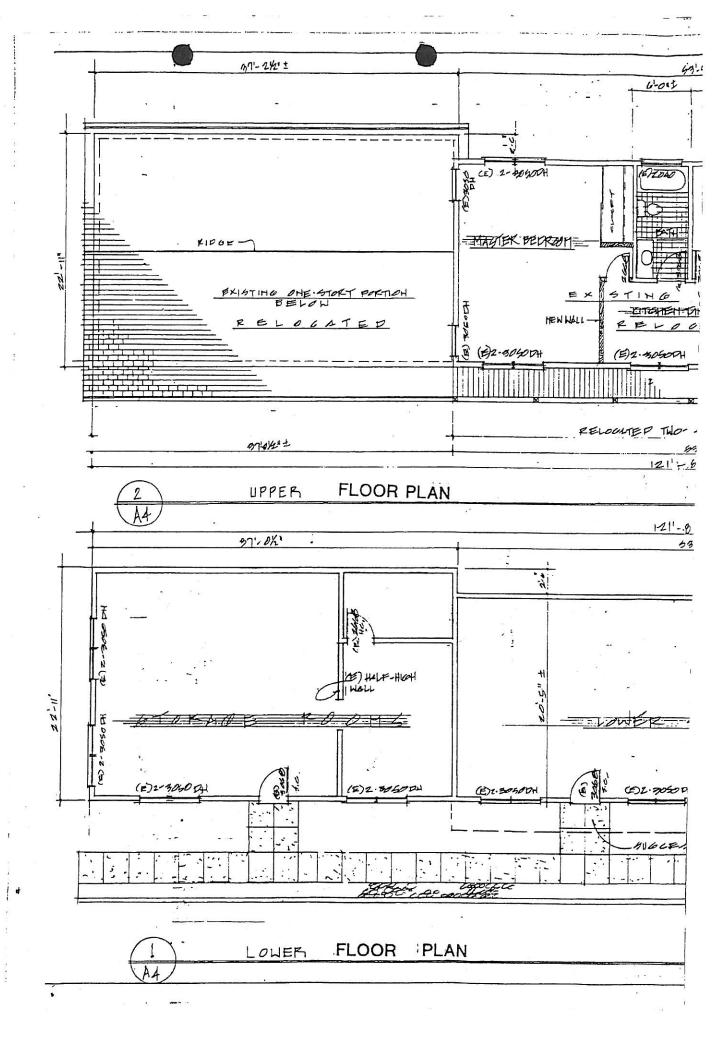
MC AVOY HARBOR

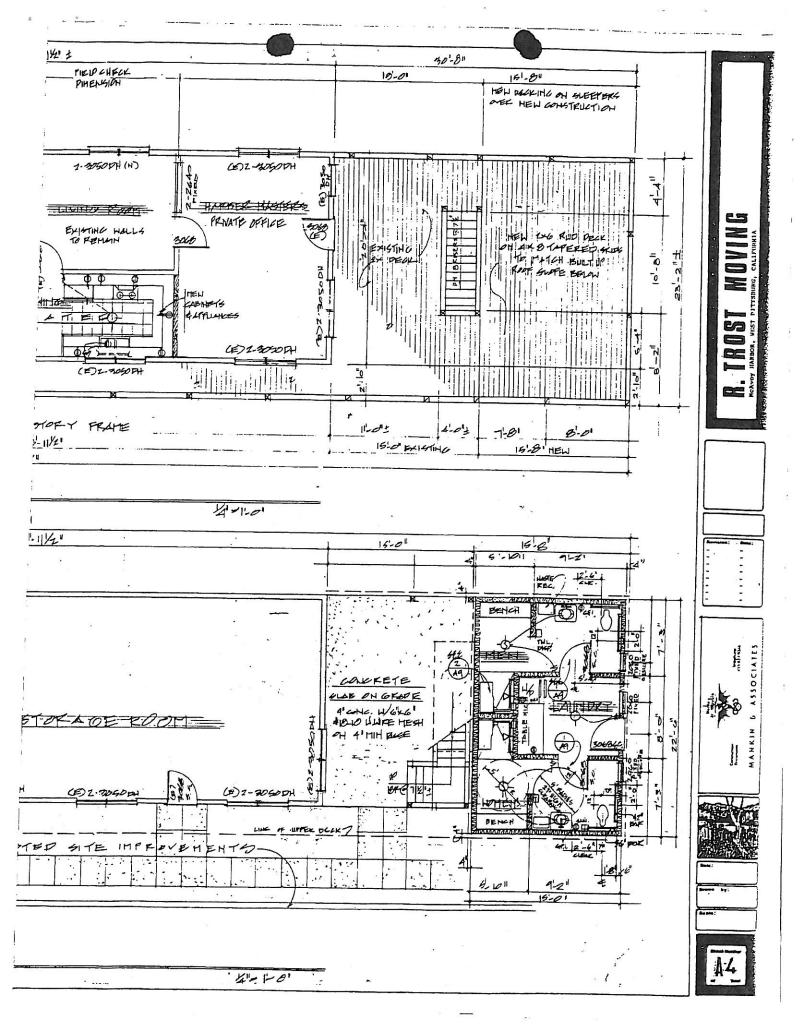
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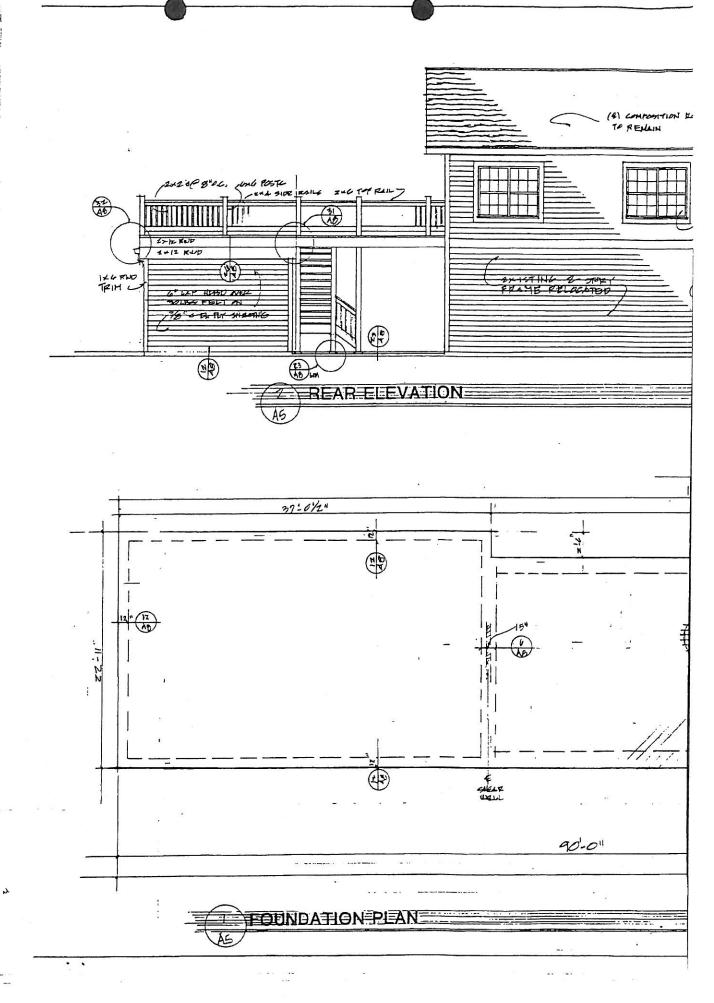




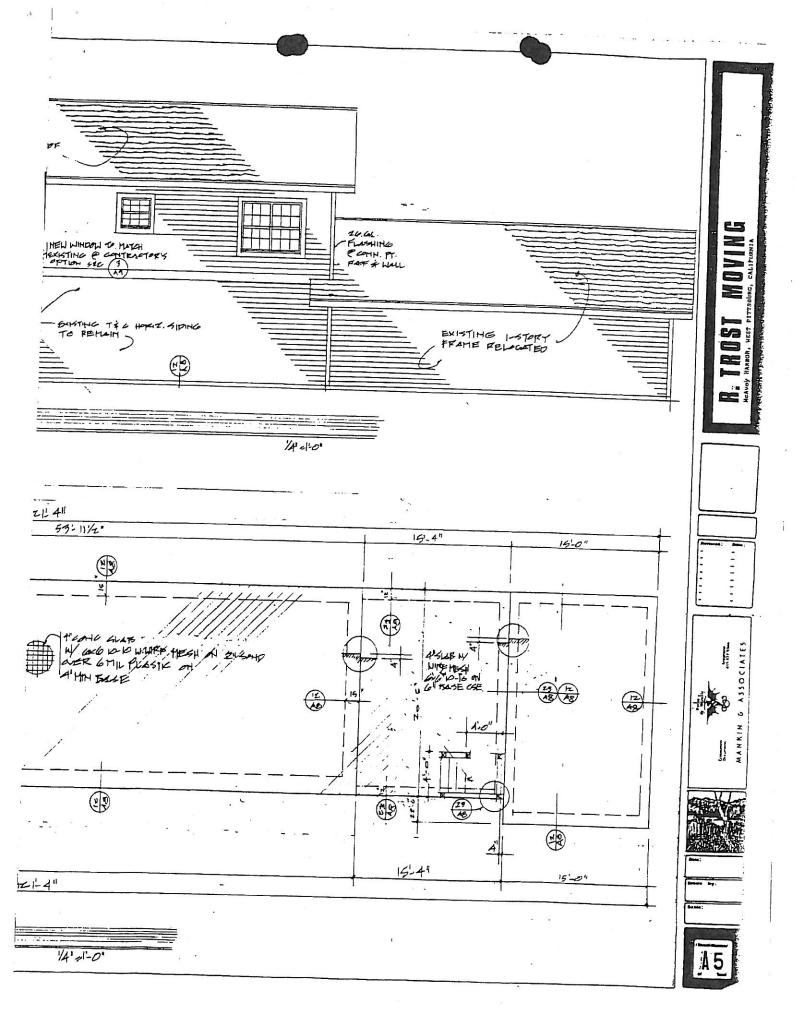




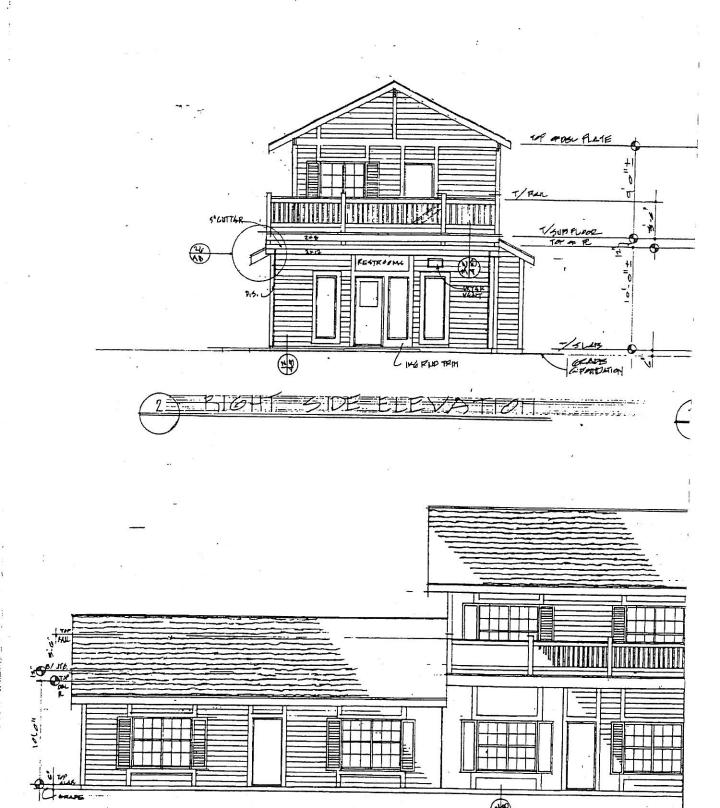
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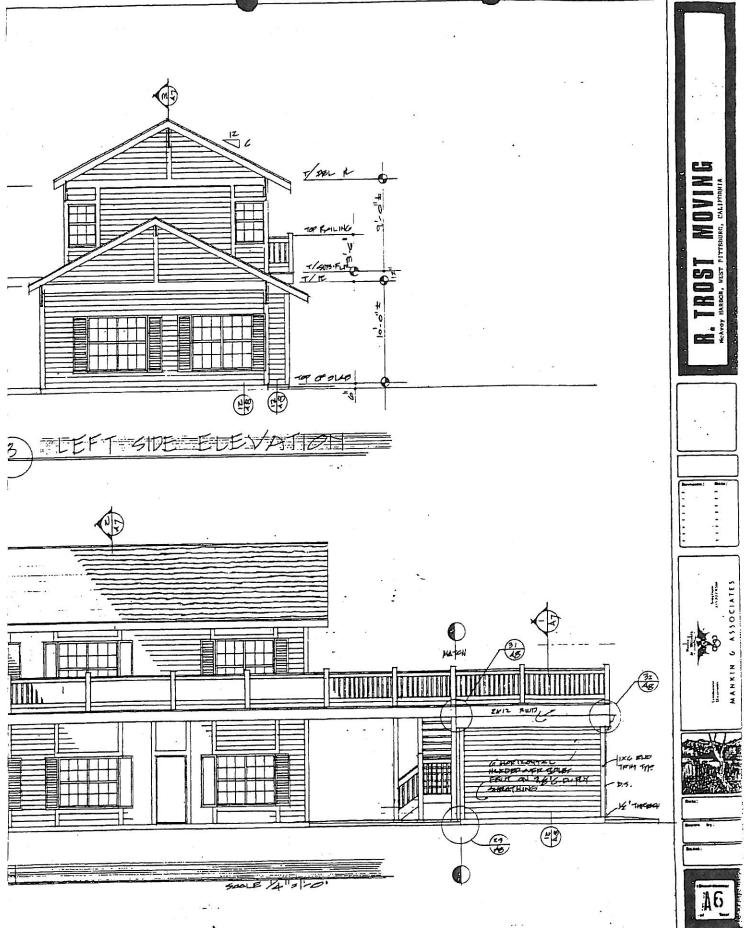


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Pine & Escobar Streets Martinez, California 228-3000

Application No. 444-63

Land Use District H-I

A LAND USE PERMIT IS HEREBY GRANTED TO:

Russell Harris Rt. 1 Box 562 Pitteburg, California

FOR THE FOLLOWING: TO ENLARGE AN EXISTING NON-CONFORMING USE (YACHT MARINA) - Granted with the following condition:

 The permit is approved as per the plot plan submitted with the application.

LOCATED ON: A descriptive parcel (87.14 acres) north of the A.T. & S.F. R.R. and northeast of Port Chicago Highway - Pittsburg area

EFFECTIVE DATE: 5:00 p.m. Honday, Dacember 30, 1963

Unless otherwise provided, this permit will expire one year from the effective date if the use allowed by this permit is not established within that time.

THOMAS G. HEATON Director of Planning

AAD: krt cc: File #444-63 Anthony A. Dehaesus Associate Planner

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